

FOIAB5

Approved For Release 2007/02/07 : CIA-RDP77M00144R000800120011-2

Next 3 Page(s) In Document Exempt

Approved For Release 2007/02/07 : CIA-RDP77M00144R000800120011-2

service in such action or proceeding except at the request or with the approval of the Congressional Legal Counsel or either House of Congress; and:

(3) transfer all materials relevant to the representation authorized under section 203 (a) to the Congressional Legal Counsel.

Provided, however, That nothing in this subsection shall limit any right of the Attorney General under existing law to intervene or appear as *amicus curiae* in such action or proceeding.

(b) The Attorney General shall notify the Congressional Legal Counsel with respect to any proceeding in which the United States is a party of any determination by the Attorney General or Solicitor General not to appeal any court decision affecting the constitutionality of a statute enacted by Congress within such time as will enable the Congressional Legal Counsel to intervene in such proceeding pursuant to section 203.

PROCEDURAL PROVISIONS.

SEC. 212. (a) Permission to intervene as a party or to file a brief *amicus curiae* under section 205 of this title shall be of right and may be denied by a court only upon an express finding that such intervention or filing is untimely and would significantly delay the pending action.

(b) The Congressional Legal Counsel, the Deputy Congressional Legal Counsel or any designated Assistant Congressional Legal Counsel, shall be entitled, for the purpose of performing his functions under this title, to enter an appearance in any such proceeding before any court of the United States without compliance with any requirement for admission to practice before such court, except that the authorization conferred by this paragraph shall not apply with respect to the admission of any person to practice before the United States Supreme Court.

(c) Nothing in this title shall be construed to confer standing on any party seeking to bring, or jurisdiction on any court with respect to, any civil or criminal action against Congress, either House of Congress, a Member of Congress, a committee or subcommittee of Congress, or any officer, employee, office, or agency of Congress.

(d) In any civil action brought pursuant to section 204 of this title, the court shall assign the case for hearing at the earliest practicable date and cause the case in every way to be expedited. Any appeal or petition for review from any order or judgment in such action shall be expedited in the same manner.

JURISDICTION OF CONGRESSIONAL ACTIONS.

SEC. 213. (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Congressional actions

"(a) The District Court for the District of Columbia shall have original jurisdiction, without regard to the sum or value of the matter in controversy, over any civil action brought by Congress, a House of Congress, or any authorized committee or joint committee of Congress, or any subcommittee thereof, to enforce, or secure a declaration concerning the validity of, any subpoena or order issued by Congress, or such House, committee, subcommittee, or joint committee to any entity acting or purporting to act under color or authority of State law or to any natural person to secure the production of documents or other materials of any kind or the answering of any deposition or interrogatory or to secure testimony or any combination thereof. This section shall not apply to an action to enforce, or secure a declaration concerning the validity of, any subpoena or order issued to an officer or employee of the Federal Government acting within his official capacity.

"(b) The Congress, or either House of Congress, any committee, subcommittee, joint committee, or congressional commission, and

prosecuting a civil action under this section may be represented in such action by such attorneys as it may designate.

"(c) A civil action commenced or prosecuted under this section may not be authorized pursuant to the Standing Order of the Senate 'authorizing suits by Senate Committees' (S. Jour. 572, 70-1, May 28, 1928).

"(b) The analysis of such chapter 85 is amended by adding at the end thereof the following new item:

"1364. Congressional actions."

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 214. (a) Section 3210 of title 39, United States Code, is amended—

(1) by striking out "and the Legislative Councils of the House of Representatives and the Senate" in subsection (b) (1) and inserting in lieu thereof "the Legislative Councils of the House of Representatives and the Senate, and the Congressional Legal Counsel"; and

(2) by striking out "or the Legislative Council of the House of Representatives or the Senate" in subsection (b) (2) and inserting in lieu thereof "the Legislative Council of the House of Representatives of the Senate, or the Congressional Legal Counsel"; and

(b) Section 3216(a) (1) (A) of such title is amended by striking out "and the Legislative Councils of the House of Representatives and the Senate" and inserting in lieu thereof "the Legislative Councils of the House of Representatives and the Senate, and the Congressional Legal Counsel".

(c) Section 3219 of such title is amended by striking out "or the Legislative Council of the House of Representatives or the Senate" and inserting in lieu thereof "the Legislative Council of the House of Representatives or the Senate, or the Congressional Legal Counsel".

(d) Section 8 of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes", approved March 3, 1875, as amended (2 U.S.C. 118), is repealed.

SEPARABILITY

SEC. 215. If any part of this title is held invalid, the remainder of the title shall not be affected thereby. If any provision of any part of this title, or the application thereof to any person or circumstance is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 216. There are authorized to be appropriated to the office for each fiscal year through October 30, 1981, such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding twelve months following the effective date of this subsection, the expenses of the office shall be paid from the contingent fund of the Senate, in accordance with the paragraph relating to the contingent fund of the Senate under the heading, "UNDER LEGISLATIVE" in the Act of October 1, 1888 (28 Stat. 54; 2 U.S.C. 69), and upon vouchers approved by the director.

TITLE III—GOVERNMENT PERSONNEL; FINANCIAL DISCLOSURE REQUIREMENTS

DEFINITIONS

SEC. 301. As used in this title—

(1) the term "agency" means each authority of the Government of the United States;

(2) the term "commodity future" means commodity future as defined in sections 2 and 3 of the Commodity Futures Trading Act, as amended (7 U.S.C. 2 and 3);

(3) the term "Comptroller General" means the Comptroller General of the United States;

(4) the term "dependent" means dependent as defined in section 152 of the Internal Revenue Code of 1954;

(5) the term "employee" includes any employee designated under section 2105 of title 5, United States Code, and any employee of the United States Postal Service or of the Postal Rate Commission;

(6) the term "immediate family" means— (A) the spouse of an individual, (B) the child, parent, grandparent, grandchild, brother, or sister of an individual or of the spouse of such individual, and (C) the spouse of any individual designated in clause (B);

(7) the term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954;

(8) the term "Member of Congress" means a Senator, a Representative, a Resident Commissioner, or a Delegate;

(9) the term "officer" includes any officer designated under section 2104 of title 5, United States Code, and any officer of the United States Postal Service or of the Postal Rate Commission;

(10) the term "security" means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b);

(11) the term "transactions in securities and commodities" means any acquisition, transfer, or other disposition involving any security or commodity;

(12) the term "uniformed services" means any of the armed forces, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration;

(13) the term "political contribution" means a contribution as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431); and

(14) the term "expenditure" means an expenditure as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

INDIVIDUALS REQUIRED TO FILE REPORT

SEC. 302. (a) Any individual who is or was an officer or employee designated under subsection (b) shall file each calendar year a report containing a full and complete financial statement for the preceding calendar year if such individual has occupied the office or position for a period in excess of ninety days in such calendar year.

(b) The officers and employees referred to in subsection (a) are—

- (1) the President;
- (2) the Vice President;
- (3) each Member of Congress;
- (4) each justice or judge of the United States;

(5) each officer or employee of the United States who is compensated at a rate equal to or in excess of the minimum rate prescribed for employees holding the grade of GS-16 under section 5332(a) of title 5, United States Code; and

(6) each member of a uniformed service who is compensated at a rate equal to or in excess of the monthly rate of pay prescribed for grade O-7, as adjusted under section 1009 of title 37, United States Code.

(c) Any individual who seeks nomination for election, or election, to the office of President, Vice President, or Member of Congress shall file in any year in which such individual has—

(1) taken the action necessary under the law of a State to qualify for nomination for election, or election, or

(2) received political contributions or made expenditures, or has given consent for any other person to receive political contributions or make expenditures, with a view to such individual's nomination for election, or election, to such office,

July 21, 1976

CONGRESSIONAL RECORD—SENATE

S 1211

a report containing a full and complete financial statement for the preceding calendar year.

CONTENTS OF REPORTS

SEC. 303. (a) Each individual shall include in each report required to be filed by him under section 302 a full and complete statement, in such manner and form as the Comptroller General may prescribe, with respect to—

(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received from any member of his immediate family) received during the preceding calendar year which exceeds \$100 in amount or value, including any fee or other honorarium received for or in connection with the preparation or delivery of any speech, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication;

(2) the fair market value and source of any item received in kind or aggregate of such items received from one source (other than items received in kind from any member of his immediate family), including, but not limited to, any transportation or entertainment received, during the preceding calendar year if such fair market value for such item exceeds \$500;

(3) the identity and the category of value, as designated under subsection (b), of each asset, other than household furnishings or goods, jewelry, clothing, or any vehicle owned solely for the personal use of the individual, his spouse, or any of his dependents, held during the preceding calendar year which has a value in excess of \$1,000 as of the close of the preceding calendar year;

(4) the identity and the category of amount, as designated under subsection (b), of each liability owed which is in excess of \$1,000 as of the close of the preceding calendar year;

(5) the identity, the category of amount, as designated under subsection (b), and date of any transaction in securities of any business entity or any transaction in commodities futures during the preceding calendar year which is in excess of \$1,000;

(6) the identity and the category of value, as designated under subsection (b), of any purchase or sale of real property or any interest in any real property during the preceding calendar year if the value of property involved in such purchase or sale exceeds \$1,000;

(7) any patent right or any interest in any patent right, and the nature of such patent right, held during the preceding calendar year; and

(8) a description of, the parties to, and the terms of any contract, promise, or other agreement between such individual and any person with respect to his employment after such individual ceases to occupy his office or position with the Government, including any agreement under which such individual is taking a leave of absence from an office or position outside of the Government in order to occupy an office or position of the Government, and a description of and the parties with any unfunded pension agreement between such individual and any employer other than the Government.

Each individual designated under paragraphs (3) and (6) of section 302(b) shall also include in such report the identity of any person, other than the Government, who paid such individual compensation in excess of \$5,000 in any of the five years prior to the preceding calendar year and the nature and term of the services such individual performed for such person. The preceding sentences shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law,

between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

(b) (1) For purposes of paragraphs (3) through (6) of subsection (a), an individual need not specify the actual amount or value of each asset, each liability, each transaction in securities of any business entity or in commodities futures, or each purchase or sale required to be reported under such paragraphs, but such individual shall indicate which of the following categories such amount or value is within—

(A) not more than \$5,000,

(B) greater than \$5,000 but not more than \$15,000,

(C) greater than \$15,000 but not more than \$50,000,

(D) greater than \$50,000, but not more than \$100,000, or

(E) greater than \$100,000.

(2) Each individual shall report the actual amount or value of any other item required to be reported under this section.

(c) For purposes of paragraphs (1) through (7) of subsection (a), an individual shall include each item of income or reimbursement and each gift received, each item received in kind, each asset held, each liability owed, each transaction in commodities futures and in securities, each purchase or sale of real property or interest in any real property, and each patent right or interest in any patent right held by him, his spouse, or any of his dependents within his control, or by him and his spouse or dependents jointly, or by any person acting on his behalf: *Provided*, That no disclosure shall be required as to those items of the spouse and dependents of the reporting individual which represent their sole property and which are not in any way, directly or indirectly, past or present, derived from the income, earnings, investments, assets, dividends, property, holdings or activities of the covered official.

FILING OF REPORTS.

SEC. 304. (a) (1) Each individual required to file a report under section 302(a), other than an individual excepted under paragraph (3) of this subsection, shall file such report with the Comptroller General not later than May 15 of each year. Each such individual, other than the President, Vice President, a Member of Congress, a Justice or Judge of the United States, any officer or employee of the Senate or the House of Representatives or any court of the United States, the head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in the Executive Office, or each full-time member of a committee, board, or commission appointed by the President, shall file a copy of such report with the head of the agency in which such individual occupies any office or position at the same time as such report is filed with the Comptroller General.

(2) Each Member, officer, and employee of the House of Representatives and the Senate required to file a report under section 302 (a) shall file a copy of such report with the Clerk of the House of Representatives and the Secretary of the Senate, respectively, and each Justice, judge, officer, and employee of any court of the United States shall file a copy of such report with the Director of the Administrative Office of the United States Courts at the same time as such report is filed with the Comptroller General.

(3) The head of each agency, each Presidential appointee in the Executive Office of the President, the head of an agency in the Executive Office, and each full-time member of a committee,

board, or commission appointed by the President, shall file a copy of such report with the Chairman of the Civil Service Commission; at the same time such report is filed with the Comptroller General.

(4) The President may exempt any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged exclusively in intelligence activities in any agency of the United States, from the requirement to file a report with the Comptroller General if the President finds that due to the nature of the office or position occupied by such individual, public disclosure of such report would reveal the identity of an undercover agent of the Federal Government. Each individual exempted by the President from such requirements shall file such report with the head of the agency in which he occupies an office or position or, if an individual described in subsection (a) (3), with the Chairman of the Civil Service Commission.

(b) Each individual required to file a report under section 302(c) shall file such report with the Comptroller General within one month after the earliest of either action which such individual takes under section 302(c) (1) or (2).

(c) (1) Any individual who ceases prior to May 15 of any calendar year to occupy the office or position the occupancy of which imposes upon him the reporting requirement contained in section 302(a) shall file such report for the preceding calendar year and the period of such calendar year for which he occupies such office or position on or before May 15 of such calendar year.

(2) Any individual who ceases to occupy such office or position after May 15 of any calendar year shall file such report for the period of such calendar year which he occupies such office or position on the last day he occupies such office or position.

(d) The Comptroller General may grant one or more reasonable extensions of time for filing any report but the total of such extensions shall not exceed ninety days.

(e) The Comptroller General shall promulgate such rules and regulations as are required to carry out the provisions and purposes of this title.

FAILURE TO FILE OR FALSIFYING REPORT; PROCEDURE

SEC. 305. (a) (1) Any individual who knowingly and willfully falsifies or fails to report any information such individual is required to report under section 303, shall be fined in any amount not exceeding \$10,000, or imprisoned for not more than one year, or both.

(2) The Attorney General may bring a civil action in any district court of the United States against any individual who fails to file a report which such individual is required to file under section 302 or who fails to report any information which such individual is required to report under section 303. The court in which such action is brought may assess against such individual a penalty in any amount not to exceed \$5,000.

(b) The head of each agency, the Clerk of the House of Representatives with respect to any Member, officer, or employee of the House of Representatives, the Secretary of the Senate with respect to any Member, officer or employee of the Senate, and the Director of the Administrative Office of the United States Courts with respect to any Justice, judge, officer, or employee of any court of the United States shall submit annually to the Comptroller General a complete list of individuals who are required to file a report under section 302 and shall submit at the close of each calendar quarter a list of individuals who have begun or have employment with such agency, the House of Representatives, the Senate, or any court in such calendar quarter.

(c) The Comptroller General shall, upon request of the Attorney General, the name of any individual the Comptroller General has reasonable cause to believe has failed to file a report or has falsified or failed to file information required to be reported. In addition, if such individual is a Member, officer, or employee of the Senate or the House of Representatives, the Comptroller General shall refer the name of such individual to the Senate Select Committee on Standards and Conduct or the Committee on Standards of Official Conduct of the House of Representatives, whichever is appropriate.

(d) The President, the Vice President, either House of Congress, the Director of the Administrative Office of the United States Courts, the head of each agency or the Civil Service Commission may take any appropriate personnel or other action against any individual failing to file a report or information or falsifying information.

CUSTODY AND AUDIT OF, AND PUBLIC ACCESS TO, REPORTS

SEC. 306. (a) The Comptroller General shall make each report filed with him under section 305 available to the public within fifteen days after the receipt of such report from any individual and provide a copy of such report to any person, upon a written or oral request.

(b) The Comptroller General may require any person receiving a copy of such report under subsection (a) to supply his name and address and the name of the person or organization, if any, on whose behalf he is requesting such copy and to pay a reasonable fee in any amount which the Comptroller General finds necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. The Comptroller General may furnish any copy of such report without charge or at a reduced charge if he determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the public.

(c) (1) It shall be unlawful for any person to inspect or obtain a copy of any report—

(A) for any unlawful purpose;

(B) for any commercial purpose;

(C) to determine or establish the credit rating of any individual; or

(D) for use directly or indirectly in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action in any district court of the United States against any person who inspects or obtains such report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such individual a penalty in any amount not to exceed \$1,000.

(d) Any report received by the Comptroller General shall be held in his custody and made available to the public for a period of five years after receipt by the Comptroller General of such report. After such five-year period, the Comptroller General shall destroy any such report.

(e) (1) The House of Representatives, the Senate, the Director of the Administrative Office of the United States Courts, the Chairman of the Civil Service Commission, and the head of each agency shall make provisions to assure that each report shall be viewed in accordance with any law or regulation with respect to conflicts of interest or confidential financial information of officers or employees of the House of Representatives, the Senate, the United States courts or each such agency or in accordance with rules and regulations as may be prescribed.

(2) Notwithstanding any law or resolution, whenever in any criminal case pending in any competent court in which a Member, officer, or employee of the Senate is a defendant

of any competent court in which alleged criminal conduct of a Member, officer, or employee of the Senate is under investigation, a discovery order of a competent court is served upon the Comptroller General of the United States directing him to appear and produce any reports filed pursuant to any financial disclosure requirement, then the Comptroller General shall—

(A) if such report is in a sealed envelope, unseal the envelope containing such report and have an authenticated copy made of such report, replace such report in such envelope and reseal it, and note on such envelope that it was opened pursuant to this paragraph in response to a subpoena, a copy of which shall be attached to such envelope, and

(B) appear in response to such subpoena and produce the authenticated copy so made. For purposes of this paragraph, the term "competent court" means a court of the United States, a State, or the District of Columbia which has general jurisdiction to hear cases involving criminal offenses against the United States, such State, or the District of Columbia, as the case may be.

(f) (1) The Comptroller General shall, under such regulations as he may prescribe, conduct on a random basis audits of not more than 5 per centum of the reports filed with him under section 304(a) (1).

(2) The Comptroller General shall audit during each term of an individual holding the office of President or Vice President at least one report filed by such individual under section 304(a) (1) during such term.

(3) The Comptroller General shall, during each six-year period beginning after the date of enactment of this Act, audit at least one report filed by each Member of the Senate and the House of Representatives during such six-year period.

(4) (A) In conducting an audit under paragraph (1), (2), or (3), the Comptroller General is authorized to require by subpoena the production of books, papers, and other documents. All such subpoenas shall be issued and signed by the Comptroller General.

(B) In case of a refusal to comply with a subpoena issued under subparagraph (A)—

(i) the Comptroller General is authorized to seek an order by any district court of the United States having jurisdiction of the defendant to require the production of the documents involved; and

(ii) such district court may issue such order and enforce it by contempt proceedings.

SEC. 307. The Civil Service Commission and the Department of Justice shall each analyze regulations and procedures presently in effect with regard to financial conflicts of interest among employees of the Federal Government and recommend to the appropriate committees of Congress for their consideration such legislation as may be necessary including comments on amendment numbered 2031 as submitted. Such reports shall be delivered within six months of the enactment of this Act.

SEPARABILITY

SEC. 308. If any part of this title is held invalid, the remainder of the title shall not be affected thereby. If any provision of any of this title, or the application thereof to any person or circumstance, is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 309. There are authorized to be appropriated for each fiscal year through September 30, 1981, such sums as may be necessary to carry out the provisions of this title.

EFFECTIVE DATE

SEC. 310. The provisions of this title shall take effect on January 1, 1977, except that (1) no individual shall be required to file a

report under section 304(a) prior to May 15, 1978, and (2) any individual who is required to file a report during calendar year 1977, under section 304 (b) or (c) shall only be required to include information with respect to calendar year 1977.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the name of the Senator from Maine (Mr. MUSKIE) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. I ask unanimous consent that the text of the bill as passed be printed in the Record following the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

TECHNICAL AND CLERICAL CORRECTIONS IN ENGROSSMENT OF CERTAIN MEASURES

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 972 and the Senate amendment to H.R. 9460.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE WASHINGTON POST: YELLOW JOURNALISM

Mr. McGOVERN. Mr. President, today's Washington Post carries the crudest example of yellow journalism that I have witnessed in many years. It is a page 2 story by Eugene L. Meyer implying that my public position on the State of Israel is influenced by the fact that a piece of property I own has been rented to the Syrian Ambassador. The article can only be the product of a mean-spirited, vindictive editorial judgment that sacrifices decency and fairness to sensationalism.

The article also carries a quote by Hyman Bookbinder, executive director of the American Jewish Committee, saying that my voting record and statements on Israel are "generally good."

The PRESIDING OFFICER. Will the Senator suspend for a moment, please?

Senators will please clear the well. Senators wishing to converse please retire to the cloakroom. Senators will take their seats.

Will Senators clear the well, please? The Senator from South Dakota has a right to be heard. Please clear the well and the aisles.

The Senate will be in order.

The Senator from South Dakota.

Mr. McGOVERN. Continuing the quote from Mr. Bookbinder, it says that: McGovern, more often than others, has indicated some less than total support for the current Israeli position. It adds up to a feeling he is soft on the issue. There's a lot of easy Arab money around.

Bookbinder said: